

The State of South Carolina



Office of the Attorney General

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August 18, 1987

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122 South Confederate Avenue
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Dear Mr. Brunson:

You have requested the advice of this Office as to whether certain property in York County has either reverted to Rock Hill School District No. 3 or must be held for the benefit of the geographical community coinciding with School District No. 3. Because the investigation of factual matters does not fall within the scope of opinions of this Office, (Ops. Atty. Gen., December 12, 1983) I have assumed without further investigation that the facts, including deeds, referenced by you and noted below are the only factual matters relevant to the property in question and that no relevant questions exist as to the validity of those deeds, except as noted below. The following facts and provisions of law are relevant here:

- 1) In 1950, the predecessor to Rock Hill School District 3 conveyed the school property in question to India Hook Home Demonstration Club (India Hook) with the provision that if India Hook should disband, etc. or if the property should cease to be used for the community welfare and for Home Demonstration Club purposes, etc. then title was to vest in the County of York. Consideration for this transfer was one dollar. The property consisted of school property no longer needed for school purposes. At that time, South Carolina law authorized the sale or lease of school property by school trustees. See §21-238 of the 1952 Code, a codification of 1896 law now codified with amendments as §59-19-250 of the Code of Laws of South Carolina (1976).

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- 2) Subsequently, Act 578 of 1954 provided generally for the transfer of abandoned school buildings to community trustees for use as community buildings with reverters to the transferors if the properties were no longer used as community centers.
- 3) In 1955, Act 599, a local law for York County, ratified the 1950 transaction and provided that the property would be retained for community use "...subject to the provision for reverter as contained in the deed...or in lieu of such reverter; upon any cessation of use thereof, for continued use thereafter under the terms of Act 578 [supra]...approved February 25, 1954 subsequent to the conveyance before mentioned, and under community trustees named pursuant to said act."
- 4) Over the period of 1956 to 1972, various amendments were made to Act 578 which are now codified in §59-23-310 et seq. of the Code of Laws of South Carolina, 1976. This law now merely provides that school district trustees may, pursuant to §59-19-250, convey district property that is no longer needed for school purposes. (See Ops. Atty. Gen., April 10, 1979). Section 59-19-250 provides generally for the sale or lease of school property by trustees and neither that statute nor §59-23-310 et seq. now contain any requirements that the property be held for the benefit of the community. The 1979 opinion noted above does not note that §59-23-310 references §59-19-250.

Section 59-23-320 ratifies all conveyances "to trustees" prior to February 25, 1954, but this provision appears to be a vestige of the old community trustee provisions.
- 5) In 1970, Act 1223 of York County provided that the Boards of Trustees of York County School Districts may sell abandoned school property pursuant to the provisions of what is now codified as §59-23-310 of the Code.
- 6) In 1985, India Hook conveyed the property in question to York County because, according to the deed, India Hook could no longer use and maintain the property for home demonstration purposes. The quitclaim deed stated that the conveyance was made pursuant to the reversion clause contained in the 1950 deed.

The following conclusions can be drawn from the above sequence of deeds and statutes:

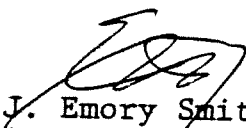
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- 1) Assuming, as noted above, that no contrary relevant facts exist other than those noted above, the 1950 deed to India Hook would be valid now, regardless of whether the consideration for the deed was sufficient then (See, Nichols v. South Carolina Research Authority, 351 S.E.2d 155 (S.C. 1986)) because it was expressly ratified by Act 599 of 1955. See also §59-23-320.
- 2) Under the terms of that deed, the property would vest in the County of York if the property were to cease to be used for Home Demonstration Club purposes. Therefore, India Hook properly conveyed the property to the County when it could no longer use the building for that purpose. The validity of such vesting in the County was expressly recognized in the 1955 Act's references to the provisions for the "reverter of title" to the County of York.
- 3) Provisions in Act 578 of 1954 for the holding of abandoned school property for the benefit of the community were passed subsequently to the 1950 deed and have since been amended to delete such requirements. §59-23-310. Therefore, Act 578 should be inapplicable here. Although Act 599 of 1955 references Act 578, the reference is operative only "in lieu of" the reverter. Because Act 599 places priority upon the reverter and because the reverter is operative under the 1950 deed, the reverter should authorize the 1985 conveyance. See Sutherland Statutory Construction, Vol. 2A, §46.01 et seq.
- 4) In conclusion, the 1985 conveyance to the County appears to be valid. Even if this conclusion were not correct, because the 1985 deed expressly vests title in the County of York, a declaratory judgment or other action should be brought to address this matter if title or an interest were to be claimed by any individual or entity other than York County or the County's grantee.

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Should you have any questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr/srcj
cc: Melvin B. McKeown, Jr., Esquire
Bruce Poore, Esquire

REVIEWED AND APPROVED:


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